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82nd General Assembly

A Bill

Act 1125 of 1999

Regular Session, 1999

HOUSE BILL 1074

By: Representatives Ferrell, P. Malone, T. Steele, Sheppard

By: Senators Bradford, Mahony

For An Act To Be Entitled

"THE ARKANSAS WORKFORCE INVESTMENT ACT; AND
FOR OTHER PURPOSES."

Subtitle

"THE ARKANSAS WORKFORCE INVESTMENT ACT."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. This Act shall be known and may be cited as the Arkansas Workforce Investment Act.

SECTION 2. The purpose of this Act is to outline a workforce development plan for Arkansas and to comply with the Federal Workforce Investment Act of 1998 by providing workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, and earning of participants, and increasing occupational skill attainment by participants, and, as a result, improving the quality of the workforce, reducing welfare dependency, and enhancing the productivity and competitiveness of the State of Arkansas.

SECTION 3. For purposes of this Act:

(1) "Chief elected official" means:

(A) The chief elected executive officer of a unit of general local government in a local area; or

(B) In a case in which a local area includes more than one (1) unit of general local government, the chief elected officials shall include the county judge(s) and the mayor(s) of the first-class city(ies). These officials may include other mayors, in accordance with the agreement cited in subdivision (C) below;

(C) In a case in which a local area includes more than one (1) unit of general local government, the chief elected officials of each unit shall execute an agreement specifying the respective

1 roles of the individual chief elected officials;

2 (2) "General local government" means any general purpose political subdivision of Arkansas
3 that has the power to levy taxes and spend funds, as well as general corporate and police powers; and

4 (3) "Local educational agency" has the meaning given the term in section 14101 of the
5 Elementary and Secondary Education Act of 1965.

6
7 SECTION 4. (a) There is created the Arkansas Workforce Investment Board.

8 (b) The Board shall consist of:

9 (1) The Governor;

10 (2) One (1) member of the House of Representatives to be appointed by the Speaker
11 of the House;

12 (3) One (1) member of the Senate to be appointed by the President Pro Tempore;

13 (4) One (1) member shall be a member of the Women's Caucus of the House of
14 Representatives to be appointed by the chairperson of the Women's Caucus;

15 (5) One (1) member shall be a member of the Black Caucus of the General Assembly
16 to be appointed by the chairperson of the Black Caucus;

17 (6) The following members to be appointed by the Governor, subject to confirmation
18 by the Senate:

19 (A) Representatives of business in Arkansas who:

20 (i) Are owners of businesses, chief executive or operating officers of
21 businesses, and other business executives or employers with policymaking or hiring authority, including
22 members of the local workforce investment boards;

23 (ii) Represent businesses with employment opportunities reflecting the
24 employment opportunities of Arkansas;

25 (iii) Are appointed from individuals nominated by Arkansas business
26 organizations and business trade associations; and

27 (iv) At least one (1) of whom serves on a local workforce investment
28 board;

29 (B) One chief elected official nominated by the Arkansas Municipal League and one
30 chief elected official nominated by the Association of Arkansas Counties;

31 (C) No less than three (3) representatives of labor organizations who are to be
32 nominated by the Arkansas labor federation;

33 (D) No less than two (2) representatives of individuals and organizations who
34 have experience with respect to youth activities and programs;

35 (E) No less than three (3) representatives of individuals and organizations who
36 have experience and expertise in the delivery of workforce investment activities of which at least one (1)

1 person shall be a chief executive officer of a two (2) year college nominated by the Association of two-
2 year colleges, one (1) member shall be a director of an agency responsible to a local work force
3 investment board for administrative workforce investment programs, nominated by the Career
4 Development Network Associations, and one (1) member representing community-based organizations;
5 and

6 (F) One (1) member who is a person with a disability who is familiar with
7 vocational rehabilitation and:

- 8 (i) Represents an organization(s) of Arkansans with disabilities or;
- 9 (ii) Complies with subsection (b)(6)(A) of this Section.
- 10 (7) The Director of the Department of Workforce Education;
- 11 (8) The Director of the Employment Security Department;
- 12 (9) The Director of the Department of Human Services;
- 13 (10) The Director of the Arkansas Economic Development Commission;
- 14 (11) A representative of Employment and Training Activities carried out by the
15 Department of Housing and Urban Development;
- 16 (12) The Director of the Department of Higher Education; and
- 17 (13) The Director of the Arkansas Rehabilitative Services.

18 (c) In no event shall the Board consist of more than forty-eight (48) members. A person may
19 serve in dual capacity as a member of the Board.

20 (d) The Governor may select one (1) person from any of the following to serve in dual capacity
21 as a member of the Board:

- 22 (1) Arkansas Development Finance Authority;
- 23 (2) Arkansas Economic Development Commission;
- 24 (3) State Board of Education;
- 25 (4) State Board of Workforce Education;
- 26 (5) Arkansas Department of Higher Education Coordinating Board; or
- 27 (6) Transitional Employment Assistance Program Advisory Council or their successors.

28 (e) In appointing the members, the Governor shall take into consideration that the Board
29 represents the diverse regions of Arkansas, including but not limited to the urban, rural and suburban
30 areas, and that the boards or commissions, or both, of the state educational and economic development
31 agencies are represented.

32 (f) Non-legislative members shall be appointed for four (4) year staggered terms. The
33 staggered terms shall be assigned by lot. The terms shall commence on June 1 of each year.

34 (g) A majority of the members shall be representatives of businesses.

35 (h) The Governor shall annually select on June 1 a chairperson for the Board among the
36 representatives of businesses described in subdivision (b)(6) of this section.

1 (i) In the event of a vacancy on the Board in one of the nonlegislative positions, the vacancy
2 shall be filled for the unexpired portion of the term by appointment of the designated representative in
3 subsection (b)(6) of this section of a person meeting the same qualifications required for initial
4 appointment.

5 (j) The Board may, by a majority vote of the total membership of the board cast during its first
6 regularly scheduled meeting of each calendar year, authorize payment to its members of a stipend not to
7 exceed one hundred dollars (\$100) per meeting attended, and the board members shall receive no other
8 compensation, expense reimbursement, or in-lieu-of payments as provided in § 25-16-902. The stipend
9 shall be paid from the Arkansas Workforce Investment Fund.

10 (k) The legislative members shall receive, in lieu of reimbursement for meals, lodging and travel,
11 the same per diem and mileage allowance for each day of attending meetings of the Board as is
12 authorized by law for attending meetings of the interim committees of the General Assembly and shall be
13 paid from the Arkansas Workforce Investment Fund.

14 (l) A member of the Board shall not:

15 (1) Vote on a matter under consideration by the Board:

16 (A) Regarding the provision of services by the member or by an entity that such
17 member represents; or

18 (B) That would provide direct financial benefit to the member or the immediate
19 family of the member; or

20 (2) Engage in any other activity determined by the Governor or by law to constitute a
21 conflict of interest.

22 (m) The Board shall hold its first meeting by July 15, 1999 at a place and time designated by
23 the Governor. Subsequent meetings shall be held at least quarterly or at the call of the chairperson or
24 upon the written request of a majority of the members of the Board.

25 (n) For purposes of complying with this section, the Governor may use any state entity that:

26 (1) Was in existence on December 31, 1997, and

27 (2) Was established pursuant to section 122 or title VII of the Job Training Partnership
28 Act, as in effect on December 31, 1997; or

29 (3) Is substantially similar to the Board described in subsection (a) of this section.
30

31 SECTION 5. (a) In order to comply with the requirements and responsibilities assigned within
32 this Act, the Board shall select from its membership an Executive Committee to be composed of at least
33 eleven (11) members but no more than fifteen (15) members.

34 (b) The chair and vice-chair of the Board shall serve as the chair and vice-chair of the
35 Executive Committee, respectively;

36 (c) The membership of the Executive Committee shall include:

1 (1) At least seven (7) business members, with at least one (1) of whom serves on a
2 local workforce investment board;

3 (2) At least two (2) Arkansas labor federation representatives;

4 (3) At least two (2) members of the General Assembly;

5 (4) At least one (1) Community College Representative; and

6 (5) At least one (1) Chief Elected Official.

7 (d) The Board shall form such other committees as needed.

8 (e) Membership on any committee shall not extend beyond term of service on the Board.

9 (f) The executive board shall, beginning in August of 1999, meet monthly and shall report to the
10 Board at the quarterly meetings.

11 (g) Expense reimbursement and per diem allowance for the members shall be as provided in
12 subsections (j) and (k) of section 4.

13
14 SECTION 6. (a) The Board shall advise and assist the Governor and the General Assembly in
15 the:

16 (1) Development of a state workforce development plan;

17 (2) Development and continuous improvement of a statewide system of activities that
18 are funded under this Act or carried out through a one-stop delivery system which receives funds under
19 this Act including:

20 (A) Development of linkages in order to assure coordination and
21 nonduplication among the programs and activities; and

22 (B) Review of local plans;

23 (3) Commenting on an annual basis on the measures taken pursuant to section 113(b)
24 (14) of the Carl D. Perkins Vocational and Applied Technology Education Act;

25 (4) Designation of local workforce investment areas;

26 (5) Development of an allocation formula for the distribution of funds for adult
27 employment and training activities and youth activities to local areas;

28 (6) Development and continuous improvement of comprehensive state performance
29 measures, including state adjusted levels of performance, to assess the effectiveness of the workforce
30 investment activities in the state;

31 (7) Preparation of the annual report to the United States Secretary of Labor;

32 (8) Development of a statewide employment statistics systems as described in section
33 15(e) of the Wagner-Peyser Act;

34 (9) Development of an application for an incentive grant;

35 (10) Recommendation of the programs identified in Section 7 (b)(8)(A) which may be
36 consolidated or realigned;

1 (11) Creation of workforce investment program accountability measures and
2 standards;

3 (12) Development of workforce training standards;

4 (13) Evaluation of the entire Arkansas workforce investment system, including but not
5 limited to the education system, the Career Development system and the youth programs, to determine
6 if it is meeting the goals of the Arkansas Workforce Investment Act;

7 (14) Re-evaluation of the Arkansas Workforce Investment Act;

8 (15) Coordination of state agencies to assist in the development of the state workforce
9 development plan;

10 (16) Development of additional state workforce development plans every three (3)
11 years;

12 (17) Use of federal, state or private funds, donations, and grants made available for the
13 development of the Arkansas Workforce Development Plan;

14 (18) Establishing procedures that will be taken by the State to assure coordination of
15 and avoid duplication among Workforce Investment Programs; and

16 (19) Provide a report prior to each regular session to the Arkansas General Assembly
17 with recommendations for appropriate statutory changes which may enhance the delivery of Workforce
18 Investment in and for Arkansas.

19 (b) The Executive board may recommend to the Governor the resolution of any disagreements
20 between or among state agencies pertaining to their duties and responsibilities in the state workforce
21 investment plan. The executive board shall notify the agencies involved of the recommendation in
22 writing.

23 (c) The board may recommend to the Governor that he require state agencies to cooperate with
24 the board in implementing the state workforce investment plan, including but not limited to providing
25 information to the board and providing staff assistance.

26 (d) The Workforce Investment Board shall have the authority to promulgate any rules or
27 regulations necessary to carry out the provisions of this Act and to comply with the Federal Workforce
28 Investment Act of 1998.

29 (e) The Board shall present a report quarterly to the Legislative Council concerning the
30 progress, performance and compliance with the Federal Workforce Investment Act of 1998, and the
31 Arkansas Workforce Investment Act of 1999 and shall provide to the Legislative Council any
32 information requested of it.

33 (f) Based upon measures established through Section 6 (a)(11), the Board shall recommend
34 performance incentives and shall recommend sanctions for failure to achieve such measures.

35 (g) (1) The Director of the Board shall be appointed by the Governor with the consent of the
36 Board and be subject to confirmation by the Senate.

(2) The director shall hire the necessary staff to carry out the provisions of this Act.

SECTION 7. (a) The Governor, by April 1, 2000, shall submit to the United States Secretary of Labor and other approval authorities, as appropriate, a state plan outlining the state's five (5) year strategy for the statewide workforce investment system of the state.

(b) The state plan shall include:

(1) A description of the state board, including a description of the manner in which the Board collaborated in the development of the state plan and a description of how the board will continue to collaborate in carrying out the functions described in this section;

(2) A description of state-imposed requirements for the statewide workforce investment system;

(3) A description of the state performance accountability system developed for the workforce investment activities to be carried out through the statewide workforce investment system, including but not limited to information identifying state performance measures;

(4) Information describing:

(A) The needs of the state with regard to current and projected employment opportunities, by occupation;

(B) The job skills necessary to obtain employment opportunities;

(C) The skills and economic development needs of the state; and

(D) The type and availability of workforce investment activities in the state;

(5) An identification of local areas designated in the state, including a description of the process used for the designation of the areas;

(6) An identification of criteria to be used by chief elected officials for the appointment of members of local boards;

(7) The detailed plans required under section 8 of the Wagner-Peyser Act (29 U.S.C. 49g);

(8)(A) A description of the procedures that will be taken by the state to assure coordination of and avoid duplication among:

(i) Workforce investment activities authorized under this Act;

(ii) Other activities authorized under this Act;

(iii) Programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)), activities authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.), and postsecondary vocational education activities authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

(iv) Work programs authorized under section 6(o) of the Food Stamp

1 Act of 1977 (7 U.S.C. 2015(o));

2 (v) Activities authorized under chapter 2 of title II of the Trade Act of
3 1974 (19 U.S.C. 2271 et seq.);

4 (vi) Activities authorized under chapter 41 of title 38, United States
5 Code;

6 (vii) Employment and training activities carried out under the Community
7 Services Block Grant Act (42 U.S.C. 9901 et seq.);

8 (viii) Activities authorized under the National and Community Service
9 Act of 1990 (42 U.S.C. 12501 et seq.);

10 (ix) Employment and training activities carried out by the Department of
11 Housing and Urban Development; and

12 (x) Programs authorized under state unemployment compensation laws;
13 and

14 (B) A description of the common data collection and reporting processes used
15 for the programs and activities;

16 (9) A description of the process used by the state to provide an opportunity for public
17 comment, including comment by representatives of businesses and representatives of labor
18 organizations, and input into development of the plan, prior to submission of the plan;

19 (10) Information identifying how the state will use funds the state receives under this Act
20 to leverage other federal, state, local, and private resources, in order to maximize the effectiveness of
21 the resources, and to expand the participation of business, employees, and individuals in the statewide
22 workforce investment system;

23 (11) Assurances that the state will provide for fiscal control and fund accounting
24 procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid
25 to the state;

26 (12)(A) A description of the methods and factors the state will use in distributing funds
27 to local areas for youth activities and adult employment and training activities, including:

28 (i) A description of how the individuals and entities represented on the
29 state board were involved in determining the methods and factors of distribution; and

30 (ii) A description of how the state consulted with chief elected officials
31 in local areas throughout the state in determining the distribution;

32 (B) Assurances that the funds will be distributed equitably throughout the state,
33 and that no local areas will suffer significant shifts in funding from year to year; and

34 (C) A description of the formula prescribed by the Governor for the allocation
35 of funds to local areas for dislocated worker employment and training activities;

36 (13) Information specifying the actions that constitute a conflict of interest;

1 (14) With respect to the one-stop delivery systems, a description of the strategy of the
2 state for assisting local areas in development and implementation of fully operational one-stop delivery
3 systems in the state;

4 (15) A description of the appeals process;

5 (16) A description of the competitive process to be used by the state to award grants
6 and contracts in the state for activities carried out under this Act;

7 (17) With respect to the employment and training activities for adults:

8 (A) A description of:

9 (i) The employment and training activities that will be carried out with
10 the funds received by the state through the allotment;

11 (ii) How the state will provide rapid response activities to dislocated
12 workers from funds reserved for the purposes, including the designation of an identifiable state rapid
13 response dislocated worker unit to carry out statewide rapid response activities;

14 (iii) The procedures the local boards in the state will use to identify
15 eligible providers of training services; and

16 (iv) How the state will serve the employment and training needs of
17 dislocated workers, low-income individuals, individuals training for nontraditional employment, and
18 other individuals with multiple barriers to employment; and

19 (B) An assurance that veterans will be afforded the employment and training
20 activities by the state, to the extent practicable;

21 (18) With respect to youth activities, information:

22 (A) Describing the state strategy for providing comprehensive services to
23 eligible youth, particularly those eligible youth who are recognized as having significant barriers to
24 employment;

25 (B) Identifying the criteria to be used by local boards in awarding grants for
26 youth activities, including criteria that the Governor and local boards will use to identify effective and
27 ineffective youth activities and providers of the activities;

28 (C) Describing how the state will coordinate the youth activities carried out in
29 the state with the services provided by Job Corps centers in the state; and

30 (D) Describing how the state will coordinate youth activities with activities
31 carried out through the youth opportunity grants;

32 (19) A description of the eligibility criteria set by the state to certify training providers including
33 post-secondary institutions certified under the Higher Education Act, apprenticeship programs
34 registered under the National Apprenticeship Act, and other public or private providers of training.
35 Criteria shall be established for both initial and subsequent eligibility and shall be applied equitably to all
36 training providers. The state shall develop this criteria with input from the public and the training

1 providers; and

2 (20) A description of how the state will ensure that local workforce investment board plans
3 include information as to how they will support the Transitional Employment Assistance implementation
4 plans for the counties in its service areas.

5 (c) The state plan submitted to the United States Secretary of Labor shall be considered to be
6 approved by the United States Secretary of Labor at the end of the ninety (90) day period beginning on
7 the day the United States Secretary of Labor receives the plan, unless the United States Secretary of
8 Labor makes a written determination, during the ninety (90) day period, that:

9 (1) The plan is inconsistent with the provisions of this Act; and

10 (2) In the case of the portion of the plan described in section 8(a) of the Wagner-Peyser
11 Act (29 U.S.C. 49g(a)), the portion does not satisfy the criteria for approval.

12 (d) The state may submit modifications to a state plan in accordance with the requirements of
13 this section as necessary during the five (5) year period covered by the plan.

14 (e) The General Assembly authorizes for inclusion in the state plan those programs referenced in
15 Section 501(b)(2)(A) of Public Law 105-220. Such inclusion shall have the concurrence of the State
16 Board of Workforce Education and Career Opportunities.

17
18 SECTION 8. (a) The Governor shall, no later than September 30,1999, designate local
19 workforce investment areas within the State:

20 (1) Through consultation with the Board; and

21 (2) After consultation with chief elected officials and after consideration of comments
22 received through the public comment process, as described in the Federal Workforce Investment Act,
23 Section 112(b)(9).

24 (b) In making the designation of local areas, the Governor shall take into consideration the
25 following:

26 (1) Geographic areas served by local educational agencies and intermediate educational
27 agencies;

28 (2) Geographic areas served by postsecondary educational institutions and area
29 vocational education schools;

30 (3) The extent to which the local areas are consistent with labor market areas;

31 (4) The distance that individuals will need to travel to receive services provided in the
32 local areas; and

33 (5) The resources of the local areas that are available to effectively administer the
34 activities carried out under this Act.

35 (c) The Governor shall approve any request for designation as a local area:

36 (1) From any unit of general local government with a population of five hundred

1 thousand (500,000) or more;

2 (2) Of the area served by a rural concentrated employment program grant recipient of
3 demonstrated effectiveness that served as a service delivery area or substate area under the Job
4 Training Partnership Act, if the grant recipient has submitted the request; and

5 (3) Of an area that served as a service delivery area under section 101(a)(4)(A)(ii) of
6 the Job Training Partnership Act as effective on September 1, 1999, in a state that has a population of
7 not more than one million, one hundred thousand (1,100,000) and a population density greater than nine
8 hundred (900) persons per square mile.

9 (d)(1) The Governor shall approve any request, made not later than the date of submission of
10 the initial state plan under this Act, for temporary designation as a local area from any unit of general
11 local government (including a combination of the units) with a population of two hundred thousand
12 (200,000) or more that was a service delivery area under the Job Training Partnership Act as effective
13 on September 1, 1999, if the Governor determines that the area:

14 (A) Performed successfully, in each of the last two (2) years prior to the request
15 for which data are available, in the delivery of services to participants under part A of title II and title III
16 of the Job Training Partnership Act as effective on September 1, 1999; and

17 (B) Has sustained the fiscal integrity of the funds used by the area to carry out
18 the activities.

19 (2) A temporary designation shall be for a period of not more than two (2) years, after
20 which the designation shall be extended until the end of the period covered by the state plan if the
21 Governor determines that, during the temporary designation period, the area substantially met the local
22 performance measures for the local area and sustained the fiscal integrity of the funds used by the area
23 to carry out activities under this Act.

24 (e) The Governor may approve a request from any unit of general local government for
25 designation as a local area if the Board, after consultation with and agreement of the local chief elected
26 officials, recommends to the Governor, that the area should be so designated. Arkansas labor
27 federations, or other representatives of employees if no employees are represented by labor
28 organizations;

29 (f) A unit of general local government or grant recipient that requests but is not granted
30 designation of an area as a local area may submit an appeal to the Board under an appeal process
31 established in the state plan. If the appeal does not result in the designation, the United States Secretary
32 of Labor, after receiving a request for review from the unit or grant recipient and on determining that the
33 unit or grant recipient was not accorded procedural rights under the appeal process established in the
34 state plan or that the area meets the requirements of this section, may require that the area be designated
35 as a local area.

36

1 SECTION 9. (a) There shall be established by January 15, 2000, in each local area of the
2 state, and certified by the Governor, a local workforce investment board to set policy for the portion of
3 the statewide workforce investment system within the local area.

4 (b) The Governor in partnership with the Board, shall establish criteria for use by chief elected
5 officials in the local areas for appointment of members of the local boards.

6 (c) The criteria shall require, at a minimum, that the membership of each local board:

7 (1) Include:

8 (A) Representatives of business in the local area, who:

9 (i) Are owners of businesses, chief executives or operating officers of
10 businesses, and other business executives or employers with policymaking or hiring authority;

11 (ii) Represent businesses with employment opportunities that reflect the
12 employment opportunities of the local area; and

13 (iii) Are appointed from among individuals nominated by local business
14 organizations and business trade associations;

15 (B) Representatives of local educational entities, including representatives of
16 local educational agencies, local school boards, two (2) year colleges and universities, entities providing
17 adult education and literacy activities, and postsecondary educational institutions, selected from among
18 individuals nominated by regional or local educational agencies, institutions, or organizations representing
19 the local educational entities;

20 (C) Representatives of labor organizations, nominated by Arkansas local labor
21 federations, or other representatives of employees if no employees are represented by labor
22 organizations;

23 (D) Representatives of community-based organizations;

24 (E) Representatives of economic development agencies, including private
25 sector economic development entities;

26 (F) Representatives of each of the one-stop partners; and

27 (G) One (1) member who is a person with a disability who is familiar with
28 vocational rehabilitation and represents an organization of Arkansans with disabilities and:

29 (i) Represents an organization(s) of Arkansans with disabilities; or

30 (ii) Complies with subsection (c)(1)(A) of this Section; and

31 (H) One (1) member who represents veterans organizations; and

32 (2) May include other individuals or representatives of entities as the chief elected
33 official in the local area may determine to be appropriate.

34 (d) Members of the board that represent organizations, agencies, or other entities shall be
35 individuals with policymaking authority within the organizations, agencies, or entities.

36 (e) A majority of the members of the local board shall be representatives described in

subdivision (c)(1)(A) of this section.

(f) The chief elected official shall ensure that minority groups are represented on the local board.

(g) The local board shall elect a chairperson for the local board from among the representatives described in paragraph (c)(1)(A).

(h) The chief elected official in a local area is authorized to appoint the members of the local board for the area, in accordance with the state criteria.

(1) In the event a local area includes more than one (1) unit of general local government, the chief elected officials of the units shall execute an agreement that specifies the respective roles of the individual chief elected officials:

(A) In the appointment of the members of the local board from the individuals nominated or recommended to be the members in accordance with the criteria; and

(B) In carrying out any other responsibilities assigned to the officials under this section.

(2) If, after a reasonable effort, the chief elected officials are unable to reach agreement, the Governor may appoint the members of the local board from individuals so nominated or recommended.

SECTION 10. (a) The Governor shall, once every two (2) years, certify one (1) local board for each local area in the state.

(b) The certification shall be based on criteria established under Section 9 of this Act and, for a second or subsequent certification, the extent to which the local board has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the local performance measures.

(c) Failure of a local board to achieve certification shall result in reappointment and certification of another local board.

(d) The Governor may decertify a local board, at any time after providing notice and an opportunity for comment, for:

(1) Fraud or abuse; or

(2) Failure to carry out the functions specified for the local board.

(e) The Governor may decertify a local board if a local area fails to meet the local performance measures for the local area for two (2) consecutive years.

(f) If the Governor decertifies a local board for a local area, the Governor may require that a new local board be appointed and certified for the local area pursuant to a reorganization plan developed by the Governor, in consultation with the chief elected official in the local area.

SECTION 11. (a) The functions of the local board shall include the following:

(1) Development of a local plan in accordance with Section 12 of this Act;

(2) The local board, with the agreement of the chief elected official:

(A) Shall designate or certify one-stop operators; and

(B) May terminate for cause the eligibility of the operators;

(3) The local board shall identify eligible providers of youth activities in the local area by awarding grants or contracts on a competitive basis, based on the recommendations of the youth council;

(4) The local board shall identify eligible providers of training services using criteria established by the state.

(5) If the one-stop operator does not provide intensive services in a local area, the local board shall identify eligible providers of intensive services in the local area;

(6) The local board shall develop a budget for the purpose of carrying out the duties of the local board under this section, subject to the approval of the chief elected official; and

(7) The local board shall annually provide a progress report to the Board.

(b) The chief elected official in a local area shall serve as the local grant recipient for, and shall be liable for any misuse of, the grant funds allocated to the local area, unless the chief elected official reaches an agreement with the Governor for the Governor to act as the local grant recipient and bear the liability.

(c) In order to assist in the administration of the grant funds, the chief elected official or the Governor, where the Governor serves as the local grant recipient for a local area, may designate an entity to serve as a local grant subrecipient for the funds or as a local fiscal agent. The designation shall not relieve the chief elected official or the Governor of the liability for any misuse of grant funds.

(d) The local grant recipient or an entity shall disburse the funds for workforce investment activities at the direction of the local board, pursuant to the requirements of this Act. The local grant recipient or entity shall disburse the funds immediately on receiving the direction from the local board.

(e) The local board may contract for some or all of its administrative services in an amount consistent with the grant but in no case shall the cost of administrative services exceed fifteen percent (15%) of the total cost of the program.

(f) The local board may solicit and accept grants and donations from sources other than federal funds.

(g) The local board, in partnership with the chief elected official, shall conduct oversight with respect to local programs of youth activities, local adult employment and training, and the one-stop delivery system in the local area.

(h) The local board, the chief elected official, and the Governor shall negotiate and reach an agreement on local performance measures.

1 (i) The local board shall assist the Governor in developing the statewide employment statistics
2 system described in section 15(e) of the Wagner-Peyser Act as effective on September 1, 1999.

3 (j) The local board shall coordinate the workforce investment activities carried out in the local
4 area with economic development strategies and develop other employer linkages with the activities.

5 (k) The local board shall promote the participation of private sector employers in the statewide
6 workforce investment system and ensure the effective provision, through the system, of connecting,
7 brokering, and coaching activities, through intermediaries like the one-stop operator in the local area or
8 through other organizations, to assist the employers in meeting hiring needs.

9 (l) No local board may provide training services unless the Governor, pursuant to a request
10 from the local board, grants a written waiver of the prohibition for a program of training services, if the
11 local board:

12 (1) Submits to the Governor a proposed request for the waiver that includes:

13 (A) Satisfactory evidence that there is an insufficient number of eligible
14 providers of the program of training services to meet local demand in the local area;

15 (B) Information demonstrating that the board meets the requirements for an
16 eligible provider of training services; and

17 (C) Information demonstrating that the program of training services prepares
18 participants for an occupation that is in demand in the local area.

19 (2) Makes the proposed request available to eligible providers of training services and
20 other interested members of the public for a public comment period of not less than thirty (30) calendar
21 days.

22 (3) Includes, in final request for waiver, the evidence and information described in
23 subdivisions (1) and (2) of this subsection.

24 (4) A waiver granted to a local board shall apply for a period not to exceed one (1)
25 year. The waiver may be renewed for additional periods not to exceed one (1) year, pursuant to
26 requests from the local board.

27 (5) The Governor may revoke a waiver granted if the state determines that the local
28 board involved has engaged in a pattern of inappropriate referrals to training services operated by the
29 local board.

30 (m) Nothing in this section shall be construed to provide a local board with the authority to
31 mandate curricula for schools.

32 (n) A member of a local board may not:

33 (1) Vote on a matter under consideration by the local board:

34 (A) Regarding the provision of services by the member or by an entity that such
35 member represents; or

36 (B) That would provide direct financial benefit to the member or the immediate

1 family of the member; or

2 (2) Engage in any other activity determined by the Governor or by law to constitute a
3 conflict of interest as specified in the state plan.

4 (o) There shall be established, as a subgroup within each local board, a youth council
5 appointed by the local board, in cooperation with the chief elected official for the local area.

6 (1)(A) The membership of each youth council shall include:

7 (i) Members of the local board with special interest or expertise in
8 youth policy;

9 (ii) Representatives of youth service agencies, including juvenile justice
10 and local law enforcement agencies;

11 (iii) Representatives of local public housing authorities;

12 (iv) Parents of eligible youth seeking assistance under this Act;

13 (v) Individuals, including former participants, and representatives of
14 organizations, that have experience relating to youth activities; and

15 (vi) Representatives of the Job Corps, as appropriate; and

16 (B) The membership of each youth council may include other individuals as the
17 chairperson of the local board, in cooperation with the chief elected official, determines to be
18 appropriate.

19 (2) Members of the youth council who are not members of the local board shall be
20 voting members of the youth council and nonvoting members of the board.

21 (3) The duties of the youth council include:

22 (A) Developing the portions of the local plan relating to eligible youth, as
23 determined by the chairperson of the local board;

24 (B) Subject to the approval of the local board:

25 (i) Recommending eligible providers of youth activities, to be awarded
26 grants or contracts on a competitive basis by the local board to carry out the youth activities; and

27 (ii) Conducting oversight with respect to the eligible providers of youth
28 activities, in the local area;

29 (C) Coordinating youth activities in the local area; and

30 (D) Other duties determined to be appropriate by the chairperson of the local
31 board.

32 (p) A local board may provide core services and/or intensive services, as defined in the Federal
33 Workforce Investment Act of 1998, or may be designated or certified as a One-Stop Operator, only
34 with the agreement of the chief elected official(s) and the Governor.

35 SECTION 12. (a) Each local board shall develop and submit to the Governor a
36 comprehensive five (5) year local plan in partnership with the appropriate chief elected official. The plan

1 shall be consistent with the state plan and shall be updated every three (3) years thereafter.

2 (b) The local plan shall include:

3 (1) An identification of:

4 (A) The workforce investment needs of businesses, job seekers, and workers
5 in the local area;

6 (B) The current and projected employment opportunities in the local area; and

7 (C) The job skills necessary to obtain the employment opportunities;

8 (2) A description of the one-stop delivery system to be established or designated in the
9 local area, including:

10 (A) A description of how the local board will ensure the continuous
11 improvement of eligible providers of services through the system and ensure that the providers meet the
12 employment needs of local employers and participants; and

13 (B) A copy of each memorandum of understanding concerning the operation of
14 the one-stop delivery system in the local area;

15 (3) A description of the local levels of performance negotiated with the Governor and
16 chief elected official to be used to measure the performance of the local area and to be used by the local
17 board for measuring the performance of the local fiscal agent, eligible providers, and the one-stop
18 delivery system, in the local area;

19 (4) A description and assessment of the type and availability of adult and dislocated
20 worker employment and training activities in the local area;

21 (5) A description of how the local board will coordinate workforce investment activities
22 carried out in the local area with statewide rapid response activities, as appropriate;

23 (6) A description and assessment of the type and availability of youth activities in the
24 local area, including an identification of successful providers of the activities;

25 (7) A description of the process used by the local board to provide an opportunity for
26 public comment, including comment by representatives of businesses and comment by representatives of
27 labor organizations, and input into the development of the local plan, prior to submission of the plan;

28 (8) An identification of the entity responsible for the disbursement of grant funds as
29 determined by the chief elected official or the Governor;

30 (9) A description of the competitive process to be used to award the grants and
31 contracts in the local area for activities carried out under this Act; and

32 (10) Other information as the Governor may require.

33 (c) Prior to the date on which the local board submits a local plan under this section, the local
34 board shall:

35 (1) Make available copies of a proposed local plan to the public through public
36 hearings and local news media;

(2) Allow members of the local board and members of the public, including representatives of business and representatives of labor organizations, to submit comments on the proposed local plan to the local board, not later than the end of the thirty (30) calendar day period beginning on the date on which the proposed local plan is made available; and

(3) Include with the local plan submitted to the Governor under this section any comments that represent a disagreement with the plan.

(d) The local plan submitted to the Governor under this section shall be considered to be approved by the Governor at the end of the ninety (90) day period beginning on the day the Governor receives the plan, unless the Governor makes a written determination during the ninety (90) day period that:

(1) Deficiencies in activities carried out under this Act have been identified, through audits or otherwise, and the local area has not made acceptable progress in implementing corrective measures to address the deficiencies; or

(2) The plan does not comply with this Act.

SECTION 13. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 14. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 15. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 16. EMERGENCY CLAUSE. It is hereby found and determined by the Eighty-second General Assembly that the provisions of this Act are of critical importance to preserve the efficient operation of programs that deliver services to the citizens of the State of Arkansas. The federal government has allocated funds to assist states in implementing a workforce investment plan and in order to receive those funds, Arkansas must begin to outline a proposal for approval by the United States Secretary of Labor. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the

1 last house overrides the veto.

2 /s/ Ferrell, et al

5 **APPROVED: 4/6/1999**